

COHEN, DIPPELL AND EVERIST, P. C.
CONSULTING ENGINEERS
RADIO-TELEVISION
1300 L STREET, N. W.
SUITE 1100
WASHINGTON, D. C. 20005
(202) 898-0111

DONALD G. EVERIST
SUDHIR K. KHANNA
WARREN M. POWIS
JOHN R. URAM, JR.
ROBERT W. GUILL
WILSON A. LA FOLLETTE

JULIUS COHEN
(1913-1993)
RALPH E. DIPPELL, JR.
(1922-1992)
TELECOPIER
(202) 898-0895

January 11, 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW Room 222
Washington, DC 20554

RECEIVED
JAN 11 1994
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

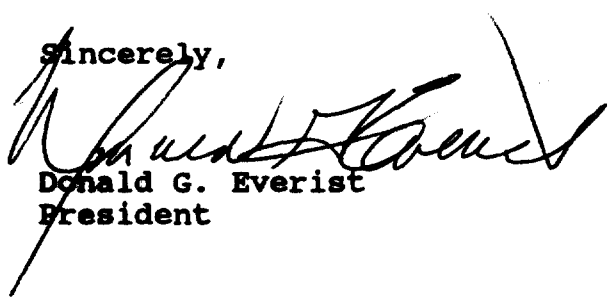
Re: ET Docket No. 93-62

Dear Mr. Caton:

Enclosed are ten copies (original and nine) of comments prepared by this office in the Notice of Proposed Rule Making, ET Docket No. 93-62 entitled, "In the Matter of Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation".

If there are any questions or comments concerning this filing, please contact the undersigned.

Sincerely,


Donald G. Everist
President

DGE:cc
Encl.

No. of Copies rec'd
List ABCDE

029

COHEN, DIPPELL AND EVERIST, P. C.

RECEIVED

JAN 11 1994

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Guidelines for Evaluating)
the Environmental Effects of) ET Docket No. 93-62
Radiofrequency Radiation)

Notice of Proposed Rule Making

Introduction

These comments have been prepared by the consulting engineering firm of Cohen, Dippell and Everist, P.C. ("CDE") concerning the Commission's Notice of Proposed Rule Making ("NPRM") in ET Docket No. 93-62.

In the NPRM the Commission proposes to revise Sections 1.1301 to 1.1319 of its Rules to incorporate the radio frequency (RF) exposure standard recently adopted by the American National Standards Institute ("ANSI") and the Institute of Electrical and Electronic Engineers, Inc. ("IEEE"), ANSI/IEEE C95.1-1992. While CDE comments are generally directed to those aspects of the proposed rules which impact assessment of broadcast facilities, they are not limited to broadcast-only concerns. In general, we believe the adoption of the ANSI/IEEE C95.1-1992 limits regarding the RF exposure standards will further the objectives of NEPA. Specifically, comments are offered concerning the various:

- intra-governmental and inter-governmental Federal government agencies method of implementation;
- federal preemption;
- prediction methods;
- measurement procedures;
- induced and contact radio frequency currents;
- controlled and uncontrolled environments;
- low power devices;

- categorical exclusions;
- effective date

Intra- and Inter-governmental Agencies

As noted in Paragraph 11 of the NPRM, it is proposed that the Federal Communications Commission intends to confer with the National Telecommunications and Information Administration ("NTIA") in the interest of developing a consistent approach to RF environment regulation and assessment. CDE supports that objective. Since the adoption of the current guidelines this office has received numerous comments from its clients on the wide divergence of the application and administration of the radiofrequency guidelines within various Federal government entities. For example, sites involving Bureau of Land Management and the Forest Service have divergent and contradictory approaches to radio frequency radiation ("RFR") administration and mitigation procedures. In addition, we have received reports that the Occupational Safety and Health Administration has even a different view. This places a heavy burden on the licensees as the lack of consistent federal policy is subject to the various governmental interpretations for which there is no simple redress. The implementation of the new rules as proposed will make this even more crucial.

In addition, it is to be noted that a number of communication facilities authorized by the various Federal agencies also tend to administer policies differently resulting in an uneven RFR application. Since these federal sites can and often do have broadcast facilities located on the site, compliance with FCC Rules and Regulations in a uniform manner becomes very difficult. In addition, within the various FCC branches, it appears that administrative differences exist, whether at the application or renewal stage, which results in distinctly different assessments. CDE, therefore, supports the Commission in its efforts to coordinate within its various branches and with other federal

governmental agencies in order to develop a unified approach to RFR evaluations.

Another matter in which CDE wishes the Commission to address is that when a significant change in policy is effected, appropriate public notice should be made. For example, the Commission placed strong reliance on OST Bulletin No. 65 and then at least in part the FM Branch opted for the assessment of FM broadcast operations based on the Environmental Protection Agency's ("EPA") model.^{1/} Promoting and disseminating policy change information to the public and licensees will ensure that valuable Commission resources are not wasted and the industry can respond appropriately and promptly to change in the Commission's policies.

Federal Preemption

If the Commission adopts ANSI/IEEE C95.1-1992 as the exposure standard for Sections 1.1301 through 1.1319 of its rules, CDE recommends that for all its licensed facilities the Commission preempt state and local jurisdiction in the administration of the regulation. In this manner, consistent with the recommendation concerning various federal agencies, the Commission will develop a unified approach to the RF environmental assessment. Preemption will allow for consistent application of these provisions in state and local governmental bodies. Therefore, universal application of all facilities licensed by the Commission or authorized by other government agencies can result, thereby ensuring that workers and the public will have utmost benefit.

Prediction Methods

For broadcast related facilities, CDE urges that the Commission review its evaluation techniques. While the OST Bulletin No. 65 and the EPA model have served well since the adoption of the current RFR guidelines, valuable information has

^{1/}See EPA Publication EPA 520/6-85-011 entitled, "An Engineering Assessment of the Potential Impact of Federal Radiation Protection Guidance on the AM, FM, and TV Broadcast Services", dated April 1985.

been accumulated during those intervening years. This additional knowledge, some of which has been filed^{2/} with the Commission, should be used to compare with current prediction methods to ascertain if modification is necessary. Prediction methods adopted should be contained under Sections 1.1301-1.1319 of the Commission's Rules in order to maintain uniformity with all spectrum users which are subject to the FCC licensing.

Measurement Procedures

CDE supports the ANSI/IEEE C95.3-1992 document for making RF field measurements. However, CDE suggests that only those instruments should be certified for making measurements which can show repeatability and are properly calibrated. In addition, measurements of RF fields undertaken by competent engineering/technical personnel using calibrated professional equipment in accordance with ANSI/IEEE C95.3-1992 should supersede any calculated evaluation of the facilities.

We strongly urge the Commission to limit the use of personal monitors until such times as they are proven to be reliable, accurate and are able to operate under all weather and working conditions. Measurements or prediction methods should take precedence over personnel monitors until their effectiveness and accuracy have been verified.

Induced and Contact RF Currents

CDE urges caution in implementing that portion of the proposed rules which pertains to induced and contact RF currents. This caution is recommended until a better and more complete understanding and techniques are developed to measure these potential hazards. Discussion with one well known manufacturer of instrumentation in the field believes that such measurement techniques need additional study and refinement before implementation. CDE concurs in that assessment. Therefore, if the

^{2/}Particularly information concerning multiple use sites

Commission adopts the standards as proposed, it should hold in abeyance those provisions. CDE believes the suspension of these provisions would be in the public interest and protection to the public and workers can still be accomplished by traditional methods, i.e., prudent avoidance or reduction in power.

CDE supports the Commission's proposed rule-making that would require all stations to carry out evaluation at a multiple use site if one or more of the facilities operates below 100 MHz. Adopting this procedure would ensure that all stations would participate in the analysis of the individual RF field contributions. However, as indicated above the Commission should stay compliance with this part of its proposed rules until procedures and instruments have been developed.

Controlled and Uncontrolled Environment

An EPA filing dated November 9, 1993, disagreed with the approach that two separate "controlled" and "uncontrolled" environments be adopted. While CDE does not possess the expertise to argue this item in detail, it notes that tower rigging crews and qualified engineering staff aware of RF environments should be considered as eligible to work under "controlled" conditions at and around broadcast facilities. At multiple use sites^{3/}, cooperative agreements have worked well in the past whereby each station reduces or terminates power when authorized personnel are working in the area of antenna systems.

CDE supports Commission's proposal that the uncontrolled guidelines should be applied to residential areas located near unrestricted RF sources even though the public may be aware of the potential RF exposure hazards. In this category the hand-held devices should be also included under uncontrolled guidelines. CDE

^{3/}The Commission should take into account remote mountaintop sites where public access is not routine. If these sites are properly posted, then restrictive efforts such as fences should not be made mandatory. The sites are those which can be impacted by higher snow levels or other weather related problems.

agrees with the Commission that the controlled guidelines may be applied in the case of incidental or transitory situations.

CDE believes all employees working at a radio facility should be treated under controlled guidelines. The Commission could require the licensee to fulfill its obligation of providing the required information to its employees.

Low Power Devices

The question of low power device⁴ exclusions as applied to non-technical users should be decided by the Commission following input from other government agencies. CDE is concerned that the general public will be unaware of how to apply caution in the use of these devices. CDE, therefore, supports stricter limitations on the exclusions for low power devices.

Categorical Exclusions

Categorically exclusions should be only limited to those situations where there is clearly no possibility of excessive exposure to workers.

Effective Date

CDE believes that stations and equipment manufacturers need time to develop procedures and appropriate instruments to ensure compliance with the new Rules. Therefore, the stations should be asked to show compliance at the time of their license renewals or if they file an application for modification of facilities. Any new application may be evaluated based on the new Rules.

In response to the question on the application forms, whether the facility would have significant environmental impact, a simple "No" answer should not be sufficient. CDE urges the Commission to request complete documentation or evidence from the applicants to show compliance with its new RF radiation exposure Rules.

⁴Devices such as hand-held transceivers, hand-held cellular phones, mobile (vehicle-mounted) two-way radio systems, and citizen-band transceivers are assumed.

Summary and Conclusions

CDE supports the adoption of ANSI/IEEE C95.1-1992 with the exception of the section concerning Induced and Contact RF Currents. CDE believes the implementation of this part should be stayed until further information is available on this subject. CDE also requests the Commission to consider the above-noted suggestions in the adoption on new radiofrequency radiation rules.

Respectfully Submitted



by: Donald G. Everist
President

Date: January 11, 1994